# BEFORE THE TENNESSEE REGULATORY AUTHORITY NASHVILLE, TENNESSEE, 15

**February 3, 2004** 

T.R.A. DUCKET ROOM

IN RE: Implementation of the Federal ) Docket No. 03-00491 Communications Commission's Triennial ) Review Order – 9 Month Proceeding - ) Switching

## AT&T MOTION TO REQUIRE BELLSOUTH TO RESPOND TO DISCOVERY

AT&T Communications of the South Central States, LLC ("AT&T") files this motion asking that the Hearing Officer issue an order requiring BellSouth Telecommunications, Inc. ("BellSouth") to respond to AT&T's Second Set of Interrogatories in the above-captioned proceeding.

On January 30, 2004, BellSouth filed objections to AT&T's Second Set of Interrogatories. BellSouth's specific objections are all based on the company's concern that the requested information falls under the category of Customer Proprietary Network Information ("CPNI"), as defined by the Federal Communications Commission ("FCC"). The FCC's rules prohibit carriers from disclosing CPNI except under certain, limited circumstances, not applicable here. Whether the requested information does, or does not, fall under the definition of CPNI, this problem can be readily resolved by the issuance of an order requiring BellSouth to release the information, subject to the proprietary order previously issued in this docket.

Based on discussions with BellSouth's counsel and BellSouth's response to similar motions in other jurisdictions (see, the attached Order issued by the North Carolina Commission), AT&T believes that BellSouth will not oppose this request.

AT&T therefore asks that the Hearing Officer issue an order directing BellSouth to produce the requested information no later than February 11, 2004.

928429 v1 100071-030 2/3/2004 Respectfully submitted, BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

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### **CERTIFICATE OF SERVICEI**

I hereby certify that on February 3, 2004, a copy of the foregoing document was serviced on the parties of record, via US mail:

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## STATE OF NORTH CAROLINA UTILITIES COMMISSION RALEIGH

DOCKET NO. P-100, SUB 133Q

#### BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Triennial Review Order UNE-P	)	ORDER GRANTING AT&T'S
	)	MOTION TO REQUIRE BELLSOUTH
	)	TO RESPOND TO DISCOVERY

BY THE PRESIDING COMMISSIONER: On January 14, 2004, AT&T Communications of the Southern States, LLC (AT&T) filed a Motion to Require BellSouth Telecommunications, Inc. (BellSouth) to Disclose Certain Information contained in BellSouth's business records concerning competitive local providers (CLP) identified as self-providers of local switching to serve the mass market in the Direct testimony of BellSouth's Witness Pamela A. Tipton. AT&T attached to its Motion the Second Set of Interrogatories that it served on BellSouth on January 14, 2004.

In its Motion, AT&T represented that BellSouth was concerned that the information requested contains Customer Proprietary Network Information (CPNI) with restrictions upon disclosure absent an Order from this Commission. BellSouth has no objection to the entry of such an Order so long as the appropriate protections for the confidential nature of the information are contained in the Order. The Commission has received no objections from any other party, although all parties of record were served with AT&T's Motion.

The Presiding Commissioner believes based on the representations contained in AT&T's Motion, and in the interest of having a full and complete record presented to the Commission in the above-referenced Docket that good cause exists to require BellSouth to provide the information sought by AT&T in its Second Set of Interrogatories served on BellSouth on January 14, 2004, subject to BellSouth's right to lodge other appropriate discovery objections and subject to all the protections contained in the Confidentiality Agreement between the parties to this Docket. As agreed to by the parties, BellSouth shall make its best efforts to provide this information to AT&T, all other parties of record that have entered into the appropriate protective agreements, and to the Commission on and not before January 29, 2004.

The Presiding Commissioner further believes good cause exists that BellSouth and the other parties to this proceeding may file with this Commission and, may provide to all other parties of record that have entered into the appropriate protective agreements, information that may consist of or that may contain CPNI in order to facilitate the timely exchange of information.

Any party objecting to this Order, in whole or in part, shall file any and all such objections with the Commission and shall serve all such objections on all parties of record no later than 5:00 p.m., January 28, 2004. If there are no objections filed accordingly, BellSouth shall provide the requested information on January 29 as ordered by this Commission.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 23<sup>rd</sup> day of January, 2004.

NORTH CAROLINA UTILITES COMMISSION

Hail L. Mount

Gail L. Mount, Deputy Clerk

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